

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9645 of 2020

=====

Nirma Nitu Wife of Raushan Kumar Resident of Ward No. 6, Village-
Rasoolpur, Post Office- Sain, Post- Belsar, Police Station- Belsar, District-
Vaishali

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Social Welfare Department, Old Secretariat, Government of Bihar, Patna
2. The Principal Secretary, Social Welfare Department, Old Secretariat, Government of Bihar, Patna
3. The Director, Integrated Child Development Scheme (ICDS), Tirhut Range, Muzaffarpur, Bihar, Patna
4. The District Magistrate, Vaishali, Hajipur
5. The District Programme Officer, Vaishali, Hajipur
6. The child Development Project Officer, Paterhi Belsar, Vaishali
7. Sri Lakhindra Ram Son of not known to the petitioner, Ward Punch (Upadhyaksha) and Member of the Pre-Member Selection Committee, Panchayat- Sain, Block- Paterhi Belsar, District- Vaishali
8. Kajol Kumari Singh Wife of Ujjaival Resident of Rasoolpur, Ward No. 6, Post- Sain, Panchayat- Sain, Block- Paterhi Belsar, District- Vaishali

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Anand Kumar Ojha
For the Respondent/s : Mr. Lalit Kishore (Ag)

=====

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 06-01-2022

The matter is heard via video conferencing due to circumstances prevailing on account of the COVID-19 pandemic.

2. In the instant petition, petitioner has sought for following reliefs:

“ (I) For setting aside the order contained in memo no. 59 dated 11.06.2020, issued under the signature of District



Programme Officer, Vaishali, by which the complaint filed by the petitioner against the selection of Smt. Kajol Kumari Singh, as 'Anganbari Sevika' for small Anganbari Kendra No. 83, Ward No. 6 of Gram Panchayat Raj Sain, has been rejected without considering the complaint of the petitioner, in a most illegal and arbitrary manner by a non-speaking order.

(II) For a direction to the respondents to appoint the petitioner on post of Anganbari Sevika for Mini Anganbari Kendra No. 83, Ward No. 6 of Gram Panchayat Raj Sain, for the reason that she is the most suitable candidate as per the guidelines dated 05.04.2016, issued by the Department of Social Welfare, Govt. of Bihar, Patna.

(III) For any other relief/reliefs to which the petitioner may be found entitled to by this Hon'ble Court."

3. The petitioner without exhausting statutory remedy of appeal presented this petition.

4. Therefore, the present petition is pre-mature to entertain in the light of Apex Court decision in the case of State of *Jammu and Kashmir V. R.K. Zalpuri* reported in *AIR 2016 SC 3006* at para 20 held as under:

"20. Having stated thus, it is useful to refer to a passage from City and Industrial Development Corporation V. Dosu Aardeshir Bhiwandiwalla and Others, wherein this Court while dwelling upon jurisdiction under Article 226 of the Constitution, has expressed thus:-

"The Court while exercising its jurisdiction under Article 226 is duty-bound to consider whether:

(a) adjudication of writ petition involves any complex and disputed questions of facts and whether they can be satisfactorily



resolved;

(b) the petition reveals all material facts;

(c) the petitioner has any alternative or effective remedy for the resolution of the dispute;

(d) person invoking the jurisdiction is guilty of unexplained delay and laches;

(e) ex facie barred by any laws of limitation;

(f) grant of relief is against public policy or barred by any valid law; and host of other factors.”

5. Accordingly, the present petition stands disposed of reserving liberty to the petitioner to prefer appeal before the appellate authority. If such appeal is filed within a period of six weeks from the date of receipt of this order, the same shall be decided by the appellate authority within a period of three months from the date of receipt of petitioner’s appeal.

(P. B. Bajanthri, J)

rakhi/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

